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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,955	08/21/2001	Rachelle B. Herdman	P213892	9401

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SCHACHT LAW OFFICE, INC.
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EXAMINER

AL HASHEMI, SANA A

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,955

Applicant(s)

HERDMAN, RACHELLE B.

Examiner

Sana Al-Hashemi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. This action is issued in response to applicant's amendment filed 8/12/04.
2. Claims 1-3 were amended. No claims were deleted. Claims 4-19 were added.
3. Claims 1-19 as amended are pending.
4. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrew (US Patent No. 6,681,344) in view of Walden et al. (US Patent No. 6,456,303).

Regarding Claim 1, Minturn discloses a health education system for distributing health information, comprising:

a question database containing a plurality of health questions, where each health question is related to the health information to be distributed (Fig. 3G, Minturn);

a solution database containing a plurality of health solution elements, where each solution element is related to the information to be distributed (Fig. 3G, Minturn¹)

links associating each of the health questions in the health question database with at least one of the health solution elements in the solution database (Fig. 6, Minturn);

a user information system for allowing a user to enter user health data related to the health of the user (Fig. 2, Minturn);

a selecting system for allowing the user to select one or more health data related to the health of the user (Fig. 2, Minturn); and

a filtering system for generating a customized list of health solution elements for the user based on the selected health questions, the set of links, and the user health data such that the customized list of health solution elements contains at least one solution element specifically related to the health of the user (Fig. 2, Minturn); and

Minturn discloses all the limitation subject matter except the step of distributing the information over communications systems. However, Walden discloses the information distribution is over communication system (Col. 6, lines 48-67, Walden). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Minturn system by making it accessible over a communication system with the motivation is improving the questioner database by navigating the specific information requested by higher number of users since the system will be accessible by wider verity of users, which would results in collecting more information, improving the educational system, and providing users with most correct information.

¹ The step of evaluating and recommendation corresponds to the solution.

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Regarding Claim 2, the combination of Andrew in view of Walden and further in view of Lencki discloses a health education system in which:

the expert protocols further comprise weighting data that relate the health solution elements to the health questions (Fig. 5I, Minturn); and

the filtering system generates the customized list of solution elements further based on the weighting data (Fig. 5K, Minturn).

Regarding Claim 3, the combination of Minturn in view of Walden discloses a health education system in which the filtering system generates the customized list of health solution elements further based on the number of times the health solution elements are associated with the selected health questions by the links (Fig. 6, Minturn).

Regarding Claim 4, the combination of Minturn in view of Walden discloses a health education system in which the user health data comprises at least one of gender, age, height, weight, and activity level of the user (Fig. 2, Minturn).

Regarding Claims 5, and 6, the combination of Minturn in view of Walden discloses a health education system in which the health questions are related at least one health condition (Fig. 2, Minturn).

Claims 8-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrew (US Patent No. 6,681,344) in view of Walden et al. (US Patent No. 6,456,303) and further in view of Lencki (US Patent Application Publication No. 2002/0049617).

Regarding Claim 7, the combination of Minturn in view of Walden discloses all of the limitation subject matter as stated above. The combination did not explicitly disclose the step of health education system in which the filtering system determines whether conflicts are present among the user health data and the selected health questions. On the other hand Lencki discloses the of health education system in which the filtering system determines whether conflicts are present among the user health data and the selected health questions (see paragraph 0111, Lencki). It would have been obvious to one of ordinary skill in the art at the time of the invention to filter system to determine whether conflict are present among the user health data specially the combination teaches providing users with recommendations based on their input, skilled artisan would have been motivated to modify the system by adding the data filter to avoid any serious health problem users may experience by following different recommendations for different health issues (i.e. exercises to reduce weight which may cause damages to user back). And by providing users with this security feature will increase the number of users, which in return provide researchers with higher feedback.

Regarding Claim 8, the combination of Minturn in view of Walden and further in view of Lencki discloses a health education system in which at least one of the links is a prohibitive link indicative of incompatibilities among a plurality of health solution elements (see paragraph 0112, Lencki).

Regarding Claim 9, the combination of Minturn in view of Walden and further in view of Lencki discloses a health education system in which at least one score is associated with at least one of the health solution elements, where the health solution elements in the customized list of

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health solution elements are prioritized based on at least one score is associated with at least one of the health solution elements (see paragraph 0141, Lencki²).

Regarding Claim 10, the combination of Minturn in view of Walden and further in view of Lencki discloses a health education system in which the customized list of health solution elements takes the form of at least one of nutrition, exercise, and life style recommendations (see paragraph 0141, Lencki).

Regarding Claim 11, the combination of Minturn in view of Walden and further in view of Lencki discloses a health education system in which the customized list of health solution elements takes the form of a menu recommendations (see Fig. 22F, Lencki).

Regarding Claims 12, and 13, the combination of Minturn in view of Walden and further in view of Lencki discloses a health education system in which the filtering system prioritizes health solution elements in the customized list of health solution elements based on the selected health questions, the set of links, and the user health data (see Fig. 22I, paragraph 0204, Lencki).

Regarding Claims 14, and 19, the combination of Minturn in view of Walden and further in view of Lencki discloses a health education system in which:

the solution data base stores health information associated with at least one of the health solution elements (see paragraph 0200, Lencki); and

the customized list of health solution elements further comprises health information associated with the health solution elements in the customized list of health solution elements (see paragraph 0204, Lencki).

² Examiner interprets the sorting of entry based on the time corresponds to prioritized based on score..

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Regarding Claim 15, the combination of Minturn in view of Walden and further in view of Lencki discloses a health education system in which:

the expert protocols further comprise weighting data that relate the health solution elements to the health questions (see paragraph 0085, Lencki);

the filtering system generates the customized list of health solution elements further based on the weighting data; and

the filtering system generates the customized list of health solution elements (see paragraph 0204, Lencki);

further based on the number of times the health solution elements are associated with the selected health questions by the links (see paragraph 0118, Lencki).

Regarding Claim 16, the combination of Minturn in view of Walden and further in view of Lencki discloses a health education system in which at least one of the-links is a prohibitive link indicative of incompatibilities among a plurality of health solution elements (see paragraph 0112, Lencki).

Regarding Claim 17 the combination of Minturn in view of Walden and further in view of Lencki discloses a health education system in which at least one score is associated with at least one of the health solution elements, where the health solution elements in the customized list of health solution elements are prioritized based on at least one score associated with at least one of the health solution elements (see paragraph 0141, Lencki).

Regarding Claim 18, the combination of Minturn in view of Walden and further in view of Lencki discloses a health education system in which the filtering system prioritizes health solution elements in the customized list of health solution elements based on the selected health

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questions, the set of links, the user health data, and the weighting data (see paragraph 0204, Lencki).

Other Prior Art Made of Record

1. Walden et al. (US Patent No. 6,456,303) discloses a method and system for access of online information.
2. Minturn (US Patent No. 5,692,501) discloses a scientific well-ness personal clinical laboratory assessments profile and health risk management system with insurance rankings on cross-correlated 10-point optical health/fitness/wellness scales.
3. Lencki et al. (US Patent Application Publication 2002/0049617) discloses a system and method for facilitating election of benefits.
4. Fuller et al. (US Patent No. 4,464,122) discloses a health potential summary and incentive system.


Conclusion

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Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to: Sana Al-Hashemi whose telephone number is (571) 272-4013. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023. Any response to this office action should be mailed to: The Commissioner of Patents and Trademarks, Washington, D.C. 20231. Or telefax at phone number (703) 872-9306. For formal or draft communications, please label "PROPOSED" or "DRAFT". Hand-delivered response should be brought to Crystal Park II, 2121 Crystal Drive, 6th Floor Receptionist, Arlington, Virginia. 22202.

Sana Al-Hashemi
Patent Examiner
Technology Center 2100
March 30, 2005



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PRIMARY EXAMINER